HON'BLE SHRI G.S. SINGHVI, THE CHIEF JUSTICE

–

WRIT PETITION NO. 35232 OF 1998

BETWEEN:

Smt. T. Venkatamma

.....**Petitioner**

And

The Revenue Divisional Officer,
Gudur, Nellore District
& another.

.....**Respondents**

:: O R D E R::

Counsel for the Petitioner : Smt. P. Sharada Reddy

Counsel for the Respondents : Government Pleader for Civil Supplies.

Dated: 12.07.2006

The petitioner, who was showered with undue and unwanted favour by the then Revenue Divisional Officer, Gudur (respondent No.1) by being appointed as fair price shop dealer at Mallam-I Village on temporary basis vide order dated 27.10.1998, has filed this petition under Article 226 of the Constitution for quashing notification dated 02.12.1998 issued by respondent No.1 inviting applications from unemployed members of Scheduled Tribe and Backward Class communities for appointment of the fair price shop dealer on permanent basis.

The petitioner's husband Shri Chenchu Krishnaiah was appointed as fair price shop dealer at Mallam-I Village almost ten years ago. After his death in August 1998, respondent No.1 accepted the application made by the petitioner and appointed her as fair price shop dealer on temporary basis. After one month, respondent No.1 issued the impugned notification inviting the unemployed candidates of Scheduled Tribe and Backward Class communities for appointment as fair price shop dealer on permanent basis.

The petitioner has questioned the notification issued by respondent No.1 by contending that the fair price shop at Mallam-I is reserved for Schedule Caste candidates and, therefore, the same cannot be thrown open for the candidates belonging to Scheduled Tribe and Backward Classes.

In the counter affidavit filed on behalf of respondents, it has been averred that notification in question was issued in accordance with the instructions issued vide G.O.Ms.No. 671, Food, Civil Supplies and Consumer Affairs Department dated 30.11.1996, which provides for specified percentage of reservation of dealership of fair price shop for backward class etc. According to the respondents, in

Gudur Division, sufficient number of members of Scheduled Castes and physically handicapped have been appointed as fair price shop dealers, but there is deficiency of Scheduled Tribes and Backward Classes and, therefore, the fair price shop in question was notified for being filled from among the members of Scheduled Tribe and Backward Classes.

I have heard learned counsel for the parties and perused the record.

In paragraph 2 of the counter-affidavit filed by Shri B. Rama Rao, the then Revenue Divisional Officer, Gudur, reference has been made to G.O.Ms.No.671, dated 30-11-1996 in terms of which the following reservation has been prescribed for the members of reserved categories in the matter of allotment of dealership of fair price shops:

Backward Classes	---	25%
Scheduled Castes	---	15%
Scheduled Tribes	---	6%
Physically Handicapped	---	3%

The petitioner has not filed reply/rejoinder affidavit to controvert the averments contained in paragraphs 2 and 3 of the affidavit of Shri B. Rama Rao, the then Revenue Divisional Officer, Gudur. Therefore, it is reasonable to take the view that fair price shops earmarked for Scheduled Caste and physically handicapped candidates had been filled so far as Gudur division is concerned and in order to make up the deficiency of Scheduled Tribe and Backward Class candidates, respondent No.1 issued the notification under challenge.

Learned counsel for the petitioner could not draw my attention to any policy decision under which the fair price shop in

question could be treated as earmarked for Scheduled Castes or show that there was deficiency of the fair price shop dealers belonging to Scheduled Caste community. She also could not draw my attention to any provision of the Essential Commodities Act, 1955 or Andhra Pradesh Scheduled Commodities (Regulation of Distribution by Card System) Order, 1973, which can be said to have been violated by respondent No.1 by notifying the fair price shop in question for being filled by unemployed candidates belonging to Scheduled Tribes and Backward Classes. Therefore, I do not find any valid ground or justification to interfere with the exercise initiated by respondent No.1 for appointment of fair price shop dealer at Mallam-I Village from among the candidates of Scheduled Tribes and Backward Classes.

In the result, the writ petition is dismissed. The competent authority shall now complete the exercise initiated by notification dated 2-12-1998 and appoint suitable person as fair price shop dealer at Mallam-I Village. It is hoped that this exercise will be completed within a period of six weeks from the date of receipt of copy of this order.

G.S.SINGHVI, CJ

svs
12.07.2006